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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/600,896

06/20/2003

Justin D. Zich

ZICH-001

7548

7590

08/24/2004

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EXAMINER

PHILOGENE, HAISSA

ART UNIT

PAPER NUMBER

2828

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,896

Applicant(s)

ZICH, JUSTIN D.

Examiner

Haissa Philogene

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/20/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agans, Jr., Patent No. 5,844,367, in view of Massie et al., Patent No. 6,727,806.

As per claims 1 and 9, Agans discloses in Figs.1 and 7 a tailgate controlled light system having a light unit (20, 24) positionable or attached within a pickup box (60, 64); a control switch (30) electrically connected to said light unit (see Fig.7) and engageable by a tailgate (62) for opening said control switch (see Fig.1).

Agans does not disclose an override switch electrically connected to said control switch. However, this feature is well-known in the art as evidenced by Massie which discloses in Fig.4 a tailgate controlled light system having an override switch (18) electrically connected to a control switch (12). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the override switch as taught by Massie into the Agans type tailgate controlled light system, because it would allow disabling of any warning system, i.e., allow a driver to turn the warning system off for those occasions

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when he desires to travel with the tailgate in the lowered position, thereby improving the efficiency of the system.

As per claims 2, 5, 7, 8, 10, 13, 15 and 16, Agans in view of Massie discloses the claimed invention substantially as explained above. Further, Massie discloses in Fig.4 the override switch (18) being electrically connectable to a power source (40); said power source (40) being a 12-volt power supply (see Col.6, line 37) employed in the pickup truck, therefore readable as a pickup power supply or as a 12V battery power supply capable of being a portable power supply since it can have other usages; and said manual override switch (18), when pressed, disabling any warning system, i.e., readable as terminating power to a light unit (20) or else regardless of the position of a tailgate (see Col.5, lines 32-35 and Col.6, lines 49-54).

As per claims 3, 4, 11 and 12 Agans in view of Massie discloses the claimed invention substantially as explained above. In addition, Agans discloses in Fig.1 the light unit (20) being positionable beneath a bed cap (64) readable as a bedrail of the pickup box, and the control switch (30) being comprised of a depress switch (31) (see Fig.2) and being positionable to be engaged by the tailgate (62) when the tailgate is closed within the pickup box to turn off the light unit (24).

As per claims 6 and 14, Agans in view of Massie discloses the claimed invention substantially as explained above. Agans in view of Massie does not disclose the override switch being positioned within a sidewall of the pickup box. It would have been obvious to one having ordinary skill in the art at the time the invention

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was made to have the override switch within the pickup box sidewall in lieu of on a dashboard, since it has been held that rearranging parts of an invention involves only routine skill in the art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Altheide, Patent No. 6,151,809; Schroeder, Patent No. 5,368,232.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 6:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MinSun Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

hp

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Primary Examiner  
A.U. 2828  
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